



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
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# Press Release

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## FOR IMMEDIATE RELEASE

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### **Deputy Attorney Generals Clear Up Misconception About Oxycontin Suit**

Individuals working on behalf of the National Chamber of Commerce and its attack dog group Citizens Against Lawsuit Abuse have been misinforming Charleston Gazette readers about the Attorney General's OxyContin lawsuit in particular and his pro-consumer litigation in general.

Allow us to set the record straight in this response to articles and commentaries that have run in your newspaper.

Fact: There were four plaintiffs in the OxyContin case, not three. The plaintiff that CALA never mentions in its assault against the attorney general's office is the group of West Virginia citizens who became addicted to OxyContin as a result of its manufacturer's criminal conduct. This plaintiff proved to have the vast majority of damages. The other three plaintiffs' share of the established damages were minimal in comparison.

Fact: Not one cent of the OxyContin settlement money was kept by the attorney general's office for its own use. The attorney general did not dole out fees for attorneys. The court determined the amount of the fee and ordered Purdue Pharma to pay it. Instead, settlement money was used to fund projects for the benefit of the main victims in the OxyContin case, namely, people who became addicted to OxyContin. Every penny of the OxyContin money has been spent in accordance with the court order. Most of the terms of the court order were insisted upon by Purdue Pharma as a condition of settlement. No one has alleged the money has been misspent or that the programs receiving the money were not worthwhile. The money given to counties for day report centers, in particular, has enabled those counties to save millions of dollars in regional jail costs for non-violent drug offenders. For every \$1 spent on a day report center, a county saves \$7 in regional jail costs. Money was provided to fund a pharmacy school at the University of Charleston. Pharmacists are the main line of defense against doctor shopping for pain medication.

Fact: Contrary to CALA's assertion, the Department of Health and Human Resources received \$250,000 of OxyContin settlement money for behavioral health programs. As a result of the attorney general's work, the DHHR (during Darrell McGraw's tenure) has received more than \$250 million. Workers' Compensation has received about \$32 million, and the Public Employees' Insurance Agency has received more than \$15.5 million. Another \$840 million of the attorney general's work product was dedicated to paying down the teachers' retirement debt.

Fact: Three years into the distribution of the OxyContin settlement, which was spread over four years, the National Chamber of Commerce contacted the Center for Medicaid and Medicare Services (CMS), urging it to seek a majority of the settlement proceeds. CMS attempted to do this. Its efforts failed. The Appeals Board hearing the case determined the CMS's request was "unreasonable on its face" and sent the case back to CMS to determine what an appropriate amount would be. The attorney general's office has set aside a substantial amount that it believes, based on the evidence, is what CMS may be entitled to receive.

Fact: The attorney general appoints outside counsel to prosecute some consumer lawsuits because this arrangement allows the State to reap all the benefits of litigation while avoiding any of the risks. For example, expenses in the OxyContin case were over \$400,000. Outside counsel are responsible for all expenses - typically hundreds of thousands of dollars in a complex case - and the state is never required to repay those expenses, win or lose. The state is never required to pay attorney fees. If a case is won, outside counsel petition the court to require the defendants to repay the expenses and to pay the attorney fees. If a case is lost, outside counsel is simply out of luck. There is no reimbursement. Attorneys' fees are paid by the individuals or companies who break the law, not taxpayers. Attorney General McGraw does not determine the amount attorneys are to receive. This amount is determined by the court. Outside counsel function under the supervision of the attorney general.

Fact: Some of our outside counsel have never contributed a penny to the attorney general's political campaigns, and many attorneys who have contributed to campaigns have never received an outside counsel appointment. Additionally, the campaigns for attorney general are not big-dollar affairs, and contribution limits for individuals are very low. The big money in political campaigns comes from business interests and 527's, which always support pro-business candidates designated as "reformers" by the Chamber of Commerce. Attorneys are selected based upon certain criteria. Firms that do defense work and have represented some of the corporate interests that we sue or oppose cannot be appointed because of a conflict of interest. Experience doing plaintiff's work, consumer work or antitrust litigation is required. The lawyers appointed by the attorney general's office must be able to access capital of at least a half million dollars. They also must have the technical and infrastructure support to handle litigation where a voluminous amount of documents are generated.

Fact: Since elected, Attorney General Darrell V. McGraw, Jr. has brought almost \$2 billion into this state at no cost to taxpayers. Of this money, 99.9 percent is or was under the control of the Legislature. None of these settlement moneys went to the attorney general's office to dole out to lawyers, contrary to the assertions of commentators such as Vic Sprouse and Steve Cohen on behalf of CALA.

Fact: The National Chamber of Commerce and Citizens Against Lawsuit Abuse have but one purpose - to take on any elected officials who regulate Chamber/CALA members, and to replace them with individuals who will not enforce consumer credit and protection laws. Your readers should consider this fact in determining the credibility of Chamber/CALA spokespersons and their submissions to your newspaper.

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